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10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF WASHINGTON
12

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 vs.

16 JESUS ELEAZAR BIRRUETA

17 MENDOZA,

18 Defendant.
19

1:24-CR-02007-SAB-1

PLAINTIFF'S SENTENCING

MEMORANDUM

20 The United States of America, by and through Stephanie Van Marter, Acting
21 United States Attorney for the Eastern District of Washington, and Michael D.
22 Murphy, Assistant United States Attorney, submits the following Sentencing
23 Memorandum.
24

25 On February 18, 2025, without benefit of a plea agreement, Defendant
26 pleaded guilty to the one count charged in the Indictment. ECF 70, 71. He therefore
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28

1 appears before the Court for sentencing on Possession with Intent to Distribute 50
2 Grams or More of Actual (Pure) Methamphetamine in violation of 21 U.S.C. §
3 841(a)(1), (b)(1)(A)(viii).

4 **I. BASE OFFENSE LEVEL AND ENHANCEMENTS**

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6 The draft PSIR provides for a total offense level of 33, criminal history
7 category of I, with a guideline range of incarceration of 135-168 months to be
8 followed by 5 years of supervised release. Draft PSIR, ECF 76, ¶ 90. Defendant's
9 base offense level is 38. ECF 76, ¶ 23. Apart from a three-level reduction of
10 acceptance of responsibility and a two-level reduction for being a zero-point
11 offender, no enhancements or adjustments apply to his offense level. *Id.* at ¶¶ 29-31.
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13 **II. DEPARTURES AND OBJECTIONS**

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15 The United States does not have any objections to the draft PSIR. The
16 Guidelines are the starting point and the initial benchmark for the sentencing
17 process. *Kimbrough v. United States*, 128 S. Ct. 558 (2007). The Court “take[s]
18 into account the totality of the circumstances” to determine whether a sentence is
19 reasonable. *Gall v. United States*, 128 S. Ct. 586, 597 (2007). Further, upon
20 appellate review, “the scheme of downward and upward ‘departures’ [is] essentially
21 replaced by the requirement that judges impose a ‘reasonable’ sentence.” *United*
22 *States v. Ellis*, 641 F.3d 411, 421 (9th Cir. 2011). The United States does not
23 request a departure from the guideline sentence but suggests a downward variance
24 of fifteen months.
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2 **III. SENTENCING FACTORS UNDER 18 U.S.C. §3553(a)**

3 1. The nature and circumstances of the offense and the history and
4 characteristics of Defendant.

5 On January 11, 2024 Defendant provided a confidential informant with a
6 sample of methamphetamine to prove the quality and availability of 50 pounds of the
7 drug which he asserted to have available for sale. ECF 76, ¶ 12. After a sale of the 50
8 pounds of methamphetamine for a price of \$60,000 was arranged, he arrived at a
9 meeting location on January 18, 2024 with what proved to be 25 pounds of
10 methamphetamine. *Id.* at ¶¶ 14-17. At the time of his arrest, he claimed to be unaware
11 that he was delivering methamphetamine but has since accepted responsibility for
12 knowingly delivering the drug. *Id.* at ¶ 15, ECF 71. Although he is not a citizen of the
13 United States and has been deported on multiple occasions, Defendant has minimal
14 criminal history. ECF 76, ¶¶ 37, 42-51.

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19 2. The need for the sentence imposed to reflect the seriousness of the offense,
20 promote respect for the law, and to provide just punishment.

21 As noted, Defendant has accepted responsibility for his actions. A Guideline or
22 near Guideline sentence would reflect the seriousness of the offense. A 120-month
23 sentence of incarceration will provide just punishment and should promote respect for
24 the law.

25
26 3. The need for the sentence imposed to afford adequate deterrence to criminal
27 conduct.
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1 In the instant case, Defendant possessed and was prepared to distribute a
2 very large quantity of methamphetamine. However, given his lack of criminal history,
3 a sentence of 120 months incarceration should afford adequate deterrence to further
4 criminal conduct. While criminal fines may have a deterrent effect, given Defendant's
5 limited financial resources and work history, the United States does not recommend
6 the imposition of a criminal fine in this case.
7

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9 4. The need for the sentence imposed to protect the public from further crimes
10 of Defendant.

11 A sentence of 120 months is appropriate to protect the public from further
12 crimes by him.

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14 5. The need for the sentence imposed to provide Defendant with needed
15 educational or vocational training, medical care, or other correctional
treatment in the most effective manner.

16 A sentence of 120 months would provide Defendant with effective correctional
17 treatment. Defendant could benefit from educational programming. *See* ECF 76, ¶ 64.
18 Defendant will likely face immigration consequences upon release from custody and
19 the United States joins in the Probation Office's recommendation of a special
20 condition that Defendant be prohibited from returning to the United States without
21 advance legal permission from the United States Attorney General or his designee.
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24 **IV. GOVERNMENT'S SENTENCING RECOMMENDATION**

25 The government recommends that the Court impose a sentence of incarceration
26 of 120 months followed by a term of supervised release of 5 years and no criminal
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1 fine. Defendant must pay a \$100 Special Penalty Assessment.

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3 DATED this 11th day of July, 2025.

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5 STEPHANIE VAN MARTER
Acting United States Attorney

6 s/ Michael D. Murphy
7 MICHAEL D. MURPHY
Assistant United States Attorney
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13 **CERTIFICATE OF SERVICE**

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15 I hereby certify that on July 11, 2025, I electronically filed the foregoing with
16 the Clerk of the Court using the CM/ECF System, and a copy was emailed to the
17 counsel of record in this case.
18
19

20 s/ Michael D. Murphy
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